

with respect to the owner's livestock feeding operation.

§ 1439.12 Liens and claims of creditors; setoffs.

Any payment or benefit or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government. The regulations governing set-offs and withholdings found at part 1403 of this chapter shall be applicable to this part.

§ 1439.13 Assignments of payments.

Payments which are earned by a person under the emergency livestock feed programs may be assigned in accordance with the provisions of 7 CFR part 1404.

§ 1439.14 Limitation of authority.

No delegation herein to a State or county committee or a commodity office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee or employee of the Department of Agriculture.

§ 1439.15 Appeals.

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at part 780 of this chapter.

§ 1439.16 Misrepresentation, scheme or device.

A person who is determined by the State committee or the county committee to have:

- (a) Adopted any scheme or other device which tends to defeat the purpose of this program;
- (b) Made any fraudulent representation; or
- (c) Misrepresented any fact affecting a program determination shall be ineligible to receive assistance under this program with respect to the crop year involved.

§ 1439.17 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the contract, or this part, and if any refund of a payment to CCC shall otherwise become due in connection with the contract, or this part, all payments made under this part to any person shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons in the contracting entity shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under the terms and conditions of the contract or this part.

(c) Interest shall be applicable to refunds required of the owner if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available of the monies or benefits to be refunded. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the owner.

(d) Interest determined in accordance with paragraph (c) of this section shall not be applicable to refunds required of the owner because of unintentional misaction on the part of the owner, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 1403.

(f) Persons who are a party to the emergency livestock feed program contract must refund to CCC any excess payments made by CCC with respect to such contract.

(g) In the event that the emergency livestock feed program contract was established as result of erroneous information provided by any owner to CCC, assistance available under the emergency livestock feed program contract shall be recomputed and any payments made or due under the contract shall be corrected as necessary. Any refund of payments which are determined to be required as a result of such recomputations of the contract shall be remitted with any applicable interest.

(h) Any refund of payments, which is determined to be required as a result of any violation of the provisions of the contract by the owner shall be remitted to CCC with any applicable interest.

[56 FR 33192, July 19, 1991, as amended at 58 FR 62513, Nov. 29, 1993]

§ 1439.18 Cumulative liability.

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

§ 1439.19 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an owner shall be eligible for assistance under this subpart only if such person meets one of the following requirements:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1439.20 Death, incompetence, or disappearance.

In the case of death, incompetence, or disappearance, of any person who is eligible to receive assistance in accordance with this part, such person or persons specified in part 707 of this title may receive such assistance.

§ 1439.21 Violations.

(a) *Disposal of grain.* (1) If the owner has failed to utilize the entire quantity of livestock feed purchased under the terms and conditions of the application for assistance and contract of these programs, the owner shall not dispose of any remaining quantity of such livestock feed except as specified by CCC.

(2) Except as permitted by CCC, if feed acquired from CCC is made available to any other person, or if a delivery order is used for obtaining a type of grain other than that specified on the delivery order, the owner shall be subject to such civil penalties and to such criminal liabilities as are provided by applicable State and Federal statutes.

(b) *Fraudulent representations.* Any warehouseman, handler, dealer, or any other person may be suspended from participation in a program in accordance with part 1407 of this chapter if such person has:

(1) Made a false certification, representation or report in accordance with this subpart; or

(2) Otherwise failed to comply with any provisions of this part or any contracts entered into in accordance with this part. The making of such fraudulent representations shall make such person liable in accordance with applicable State and Federal criminal and civil statutes.

§ 1439.22 Benefits limitation.

The total amount of benefits that a person, as determined in accordance with part 1497 of this chapter, shall be entitled to receive under one or more of the programs established under this part, may not exceed \$50,000 per livestock feed crop year for which payment is made or benefits received.

[58 FR 62513, Nov. 29, 1993]